

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

JOE HAND PROMOTIONS, INC.,	*
	*
PLAINTIFF	*
	*
VS.	*
	CIVIL ACTION NO. 1:14-cv-1058
	*
JAMES R. GEIGER, Individually, and d/b/a CARDINAL SPORTS GRILL ,	*
	*
DEFENDANT	*
	*

REPORT AND RECOMMENDATION

Plaintiff filed this suit on March 17, 2014 [D.E. 1]. However, Plaintiff has been unsuccessful in the service of process on Defendant. This Court has permitted five (5) extensions for good cause and now has ordered Plaintiff to show cause why the case should not be dismissed. *See Order To Show Cause Why Claims Should Not Be Dismissed For Failure To Prosecute* [D.E.16].

In response, Plaintiff recounts the numerous efforts to locate Defendant, to include speaking by telephone with highly mobile Defendant truck driver and as well, hiring a private investigator.

Fed. R. Civ. P. 4 (m) provides a time limit for service of process. If a Defendant is not served within 120 days after the complaint is filed, the Court must dismiss the case without prejudice or order that the service of process be made within a specified time. For good cause shown by Plaintiff, the Court must extend the time for service for an appropriate period. (emphasis supplied) As noted, the Court has permitted an extension five times and in spite of the Plaintiff's significant efforts, Defendant has yet to be served with process.

Based on the above, it is the report and recommendation of the undersigned that the case be dismissed without prejudice.

Respectfully Submitted, this 4th day of June, 2015.

s/Edward G. Bryant
UNITED STATES MAGISTRATE JUDGE

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT AND RECOMMENDATIONS MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT AND RECOMMENDATIONS. 28 U.S.C. § 636(b)(1). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.